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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/083,422	05/22/1998	SCOTT CLARE	016325-00221	3984
21586	7590	08/17/2006	EXAMINER	
VINSON & ELKINS, L.L.P. 1001 FANNIN STREET 2300 FIRST CITY TOWER HOUSTON, TX 77002-6760			PEDDER, DENNIS H	
			ART UNIT	PAPER NUMBER
			3612	

DATE MAILED: 08/17/2006

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/083,422
Filing Date: May 22, 1998
Appellant(s): CLARE ET AL.

Timothy S. Corder
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 1/19/2006, and completed on 7/21/2006, appealing from the Office action mailed June 27, 2005.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

There are no related appeals or interferences known to the examiner related to this appeal. SN 10/330,686 has been allowed.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

No amendment after final has been filed.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief as amended on 7/21/2006 is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

4,315,653	Sparling	2-1982
2,159,022	Hawkins	5-1939

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2,192,207	Stahl	3-1940
Des. 230,351	Hamel	2-1974
5,709,309	Gallagher et al.	1-1998
Des. 143,990	Powers	2-1946

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

The grounds of rejection are fully listed in the office action of 6/27/2005, incorporated by reference herein.

(10) Response to Argument

Appellant's arguments are addressed by subparagraph lettering as used in the brief.

A) Appellant argues that the combination of references to both Sparling in view of Hawkins and Stahl in view of Hawkins fail to establish a prima facie case of obviousness. However, as stated in the final rejection, page 3 and page 4, respectively, the motivation to combine these references, which knowledge thereof applicant is charged with, is self-evident: in Sparling to store tools, spare parts, away from the passengers, thereby obviating potential injury upon crash or sudden movement of the vehicle and in Stahl to size the compartment to maximize interior space. To state that this is not sufficient motivation is preposterous. One of ordinary skill in this art is a vehicle designer/engineer responsible for both consumer desires and numerous safety regulations and is well aware of the above motivations.

Regarding the statements concerning "utilizing space that is typically inaccessible or poorly accessible", no claim currently rejected has this feature and the argument is thus futile.

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Regarding the statement that the examiner offers no explanation of how this storage system in the proposed references would work, the examiner avers that one would open the door of Hawkins or Stahl and place items therein.

B) Appellant offers an unintelligible argument (pages 6-7) regarding the storage area of Stahl incorporating the partition 8. This is, respectfully, nonsense. Stahl has numerous storage areas accessible by doors 12. The partition is irrelevant as the claim is silent as to any forward wall of the storage area. The partition defines the rear compartment as claimed.

C), D), and F) Appellant argues that the prior art to Hamel, charged to appellant, does not suggest the advantage of an overhead door in protection from rain. This is again an argument without merit, unless of course appellant assumes that one of ordinary skill in the art has never experienced rain.

E) Appellant's argument concerning the reference to Gallagher et al. is void concerning this reference and relies upon the arguments above.

G) Appellant presents first an illogical argument of the following form: Claim 105 does not say that $A=B$, but rather that $B=A$, where A is the wheel well width and B is the storage are width. Since this argument is on its face senseless, no further comment is necessary.

Appellant also restates the previous argument of section A) regarding inaccessible or poorly accessible space. Once again claim 105 has no such limitation.

H) Appellant argues that the combination of Sparling with Hawkins would destroy the seating function of Sparling because the seats extend next to the wheel well. This argument is believed to be directed to claim 50, etc. However, as clearly shown in figure 3 of Sparling, there

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is space beside the seats for the inclusion of a storage area. Thus no destruction is evident in the combination taught by the prior art.

I) Appellant repeats the prior arguments of sections A) regarding accessible space and section B) regarding the storage area as including partition 8. Please refer to these sections above for the examiner's response.

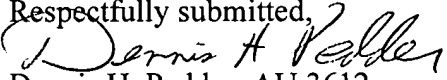
J) Appellant repeats the MPEP criteria of 2141. The invention has been considered as a whole in the final rejection and suggestions are fully listed. While hindsight is always a concern to quality examination, applicant is also charged with prior art references from his field of endeavour and that reasonably pertinent to the problem of appellant. All cited references are thus deemed relevant under the first and/or second tier tests of In re Wood, 202 USPQ 171 (CCPA 1971). The last criteria of "reasonable success" is hardly pertinent to such a simple invention as proposed. A door and a storage compartment added to a vehicle body will, with great certainty, function to hold items as desired.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,


Dennis H. Pedder, AU 3612
8/9/06

Conferees:

Lesley Morris 

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D. Glenn Dayoan

A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke extending to the right.